

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

No. 290,362

IN THE POLICE COURT OF THE DISTRICT OF COLUMBIA

JULY TERM, 1906

DISTRICT OF COLUMBIA, PLAINTIFF IN ERROR,

vs.

HORACE L. GRANT.

IN ERROR TO THE POLICE COURT OF THE DISTRICT OF COLUMBIA.

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In the Court of Appeals of the District of Columbia

DISTRICT OF COLUMBIA, Plaintiff in Error, }
vs. } No. 1713.
HORACE L. GANT.

a In the Police Court of the District of Columbia, July
Term, 1906.

DISTRICT OF COLUMBIA. }
vs. } No. 290,362. Information for Viola-
HORACE L. GANT. } tion of Weights and Measures Law.

Be it remembered, That in the Police Court of the District of Columbia, at the City of Washington, in the said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above entitled cause, to wit:

1 (Information.)

In the Police Court of the District of Columbia, July Term,
A. D. 1906.

THE DISTRICT OF COLUMBIA, ss:

Edward H. Thomas, Esq., Corporation Counsel, by James L. Pugh, Jr., Esq., Assistant Corporation Counsel, who, for the District of Columbia, prosecutes in this behalf in his proper person, comes here into Court, and causes the Court to be informed, and complains that Horace L. Gant, late of the District of Columbia aforesaid, on the 5th day of July, in the year A. D. nineteen hundred and six, in the District of Columbia aforesaid, did then and there sell certain chickens for a less weight than the true weight thereof, to wit: sold six pounds of chicken for eight pounds; contrary to and in violation of an Act of Congress approved June 30, 1906, and constituting a law of the District of Columbia.

EDWARD H. THOMAS,
Corporation Counsel.
By JAMES L. PUGH, JR.,
Assistant Corporation Counsel.

Personally appeared Leo S. Schoenthal this 6th day of July, A. D. 1906, and made oath before me that the facts set forth in the foregoing information are true, and those stated upon information received he believes to be true.

L. F. ENGBESBY,
*Deputy Clerk of the Police Court of the
District of Columbia.*

[SEAL.]

Bill of Exceptions.

In the Police Court of the District of Columbia.

DISTRICT OF COLUMBIA	}	Number 290,362.
vs.		
HORACE L. GANT.		

Be it remembered that at the trial of this cause which came on for hearing on the 12th day of July, A. D. 1906, before the Honorable Alexander R. Mallowny, one of the judges of the Police Court of the District of Columbia, the District of Columbia, to maintain the issue on its part joined, produced as a witness one Sarah Kepnick, who, being sworn according to law, testified as follows: That on the 5th day of July, A. D. 1906, the day charged in the information, she visited the stand of one D. F. Haupt, No. 939 Louisiana Avenue, northwest, in the City of Washington in the District of Columbia, and that the defendant, Horace L. Gant, waited upon her and sold her four chickens which he weighed and she paid him for eight pounds of chickens; that she protested that the chickens were too light for eight pounds and receiving no satisfaction from the defendant she took said chickens to the Sealer of Weights and Measures of the District of Columbia and requested that he weigh them to ascertain their true weight.

The District of Columbia, to further maintain the issue on its part joined, then produced as a witness one Leo S. Schoenthal, who being duly sworn according to law, testified that he was at the time alleged in said information and still is Assistant Sealer of Weights and Measures for the District of Columbia; that said chickens were delivered to him as testified by the witness, Sarah Kepnick, and that he weighed said chickens and found their true weight to be six pounds.

This was all the testimony on behalf of the District of Columbia and thereupon the District rested.

The defendant, being first duly sworn according to law, testified in his own behalf as follows: That he had no recollection

of the sale of the chickens in question; that if they were less in weight than what he charged for it was an honest mistake.

The defendant, to further maintain the issue on his part joined, called as a witness one D. F. Haupt, who, being first duly sworn according to law, testified as follows: That he knew nothing of the matter until the lady who purchased the chickens and the Assistant Sealer of Weights and Measures came to his place of business together and that he offered to return the money or make up the difference in chicken.

This was all the testimony in the case.

The Court, after argument of counsel, ruled that the true weight of said chickens was six pounds and that they were sold at eight pounds which was a greater weight and not a less weight than the true weight thereof as provided in the law.

To which said ruling of the Court the District of Columbia, by its Assistant Corporation Counsel, excepted which said exception was duly noted by the Court on his minutes, and, thereupon the District of Columbia, by its said counsel, gave notice in open Court of its intention to apply to a Justice of the Court of Appeals of the District of Columbia for a writ of error.

The District of Columbia by its said counsel, therefore prays the Court to settle, sign and seal this its bill of exceptions, which is accordingly done, now for then this 13th day of July, A. D. 1906.

ALEXANDER R. MULLOWNY,
Judge, Police Court, D. C.

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(Copy of Docket Entries.)

In the Police Court of the District of Columbia, July Term,
1906.

DISTRICT OF COLUMBIA	}	No. 290,362. Information for Viola-
vs.		
HORACE L. GANT.		
		tion of Weights and Measures Law.

Defendant arraigned Thursday, July 12, 1906. Plea: Not guilty. Judgment: Not guilty. Defendant discharged.

Exceptions taken to rulings of the Court on matters of law and notice given by the District of Columbia through the Assistant Corporation Counsel, in open Court at the time of said rulings, of its intention to apply to a Justice of the Court of Appeals of the District of Columbia for a writ of error.

July 20, 1906.—Writ of error received from the Court of Appeals of the District of Columbia.

[SEAL POLICE COURT OF DISTRICT OF COLUMBIA.]

5 In the Police Court of the District of Columbia

District of Columbia, }
UNITED STATES OF AMERICA, } ss:

I, Joseph Y. Potts, Clerk of the Police Court of the District of Columbia do hereby certify that the foregoing pages numbered from 1 to 4 inclusive, to be true copies of originals in cause No. 290,362 wherein the District of Columbia is plaintiff and Horace L. Gant defendant, as the same remain upon files and records of said Court.

In testimony whereof I hereunto subscribe my name and affix the seal of said Court, the City of Washington, in said District, this 2nd day of August, A. D. 1906.

[SEAL POLICE COURT OF DISTRICT OF COLUMBIA.]

JOSEPH Y. POTTS,
Clerk Police Court, Dist. of Columbia.

6 UNITED STATES OF AMERICA, ss:

The President of the United States to the Honorable Alex. R. Mulloony, Judge of the Police Court of the District of Columbia, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Police Court, before you, between District of Columbia, Plaintiff, and Horace L. Gant, Defendant, a manifest error hath happened, to the great damage of the said plaintiff as by its complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Court of Appeals of the District of Columbia, together with this writ, so that you have the same in the said Court of Appeals, at Washington, within 15 days from the date thereof, that the record and proceedings aforesaid being inspected, the said Court of Appeals may cause further to be done therein to correct that error, what of right

and according to the laws and customs of the United States should be done.

Witness the Honorable Seth Shepard, Chief Justice of the said Court of Appeals, the 20th day of July, in the year of our Lord one thousand nine hundred and six.

[SEAL COURT OF APPEALS DISTRICT OF COLUMBIA.]

HENRY W. HODGES,
*Clerk of the Court of Appeals of the
District of Columbia.*
By MONCURE BURKE,
Assistant Clerk.

Allowed by—

SETH SHEPARD,
*Chief Justice of the Court of Appeals
of the District of Columbia.*

Endorsed on cover: District of Columbia, Police Court. No. 1712. District of Columbia, Plaintiff in Error, vs. Horace L. G'ant. Court of Appeals, District of Columbia. Filed August 2, 1906. Henry W. Hodges, Clerk.